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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,393	05/04/1999	ANDRE RUDOLF LOUIS COLAS	VN24	9604

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DOW CORNING CORPORATION CO1232  
2200 W. SALZBURG ROAD  
P.O. BOX 994  
MIDLAND, MI 48686-0994

EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/01/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 4/29/03 and 5/6/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-10 is/are pending in the application.
- Of the above claim(s) 2-6 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 8, 10 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 16
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. The Examiner notes for the record that the Examiner's rejection of former claims 1-6 and 8 was affirmed by the Board of Appeals in Paper No. 15, mailed March 27, 2003. Original claims 7 and 9 were objected to as being dependent upon rejected base claims, and claim 10 had been allowed. Applicants have rewritten claims 1 and 8 so as to incorporate the limitations of claims 7 and 9 and has also cited to the Examiner a European Search Report mailed to applicants on April 24, 2003 which rejects all of the pending claims over a variety of references. Accordingly, the following prior art rejection is based upon a combination of the pending record to date as well as <sup>2</sup>~~the~~ references cited in the European Search Report.

3. Claims 1, 8 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fabo (WO -076) taken in view of newly cited Canadian Application 2,101,509. The Examiner again relies upon Fabo as was set forth both during previous prosecution and as further noted in the Board decision, particularly at pages 5 and 6 of the Board decision. To somewhat reiterate, Fabo describes essentially the entire claimed genus of articles and accompanying methods for adhering a prosthesis to a human or animal body which imply only clearly conventional method steps, the reference lacking only a teaching that the elements

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being adhered together are a prosthesis to a human or animal body. However, the secondary reference discloses (note particularly page 4, lines 6-13, page 5 lines 1-5, lines 11-12, and particularly lines 17-20, and claim 1) the missing element that prosthesis materials may be attached to the human body such as the chest wall by suitable silicone type adhesives (e.g. page 5, lines 17-19). Accordingly, one of ordinary skill, motivated by an expectation of improved performance properties in the bonding of prosthesis to human and animal bodies would bond the *adhesive* article as set forth in Fabo to the prosthesis and on the opposing outer surface to the human or animal skin as set forth in the Canadian reference and thereby either form or clearly render obvious, the resulting genus of articles and accompanying methods. What other parameters that may exist are each believed to be, if not expressly or inherently disclosed, obvious modifications to one of ordinary skill, in the absence of unexpected results.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be

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reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

June 30, 2003

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP ~~1900~~  
1700

*Daniel Zinker*